

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Donney Shawyn Whyte Council,

Plaintiff,

v.

The South Carolina; SCDC 16-3-20 c
Century Fox; 16-3-21 Century Fox @ 4;
and S Car Court Trials Cases,

Defendant.

C.A. No. 3:11-1088-JMC

ORDER

This matter is now before the court upon the Magistrate Judge's Report and Recommendation [Doc. # 8], filed on June 24, 2011, recommending Plaintiff's complaint be dismissed *without prejudice* and without issuance and service of process. The Report and Recommendation sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates the Magistrate Judge's Report and Recommendation without a recitation.

STANDARD OF REVIEW

The Magistrate Judge's Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or

recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

DISCUSSION

Plaintiff filed no objections to the Report and Recommendation. In the absence of objections to the Magistrate Judge's Report and Recommendation, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). Furthermore, failure to file specific written objections to the Report and Recommendation results in a party's waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

After a thorough review of the Report and Recommendation and the record in this case, the Court **ACCEPTS** the Magistrate Judge's Report and Recommendation [Doc. # 8] and incorporates it herein. Therefore, for the reasons articulated by the Magistrate Judge, it is **Ordered** that this complaint is **DISMISSED** *without prejudice* and without issuance and service of process.

IT IS SO ORDERED.

s/ J. Michelle Childs
United States District Judge

Greenville, South Carolina
July 11, 2011